

CLIENT ALERT

False Estimates: A Misguided Notion Under The FCA

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Just as Russian officials have sought to hold weather forecasters liable for bad predictions, some qui tam relators and federal agencies have sought to stretch the False Claims Act (FCA) to impose liability for false estimates. In his article "The Strange Notion of Estimates as Fraud: Will Weather Predictions Be Next Under the False Claims Act?" published in The Procurement Lawyer (Summer 2005 <http://www.crowell.com/pdf/BodenheimerSUM05.pdf>), David Z. Bodenheimer explains that these "false estimate" allegations cannot be squared with common law rules that generally exclude opinions and predictions as a basis for fraud, FCA requirements that demand objective (not subjective) proof of falsity, and basic federal procurement standards that recognize the subjectivity inherent in estimating future costs.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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